



FINANCE [PGC-I] DEPARTMENT

G.O.Ms.No.245, Dated 19th July 2018.

(Vilambi, Aadi-3, Thiruvalluvar Aandu-2049)

ABSTRACT

PENSION – Qualifying service for pension – Reduction in the maximum qualifying service for full pension – Implementation of the Judgement Order of the Hon'ble Supreme Court of India, dated 08-07-2014 in Civil Appeal No.6116 of 2014 (@ Special Leave Petition (C) No.22870/2007) by extending orders issued in G.O.(Ms).No.461, Finance (Pension) Department, Dated: 31-07-1996 to those who retired between 01-10-1979 and 01-07-1996 - Orders – Issued.

Read:-

1. G.O.(Ms).No.461, Finance (Pension) Department, Dated: 31-07-1996.
2. Judgement Order of the Hon'ble Supreme Court of India, dated 08-07-2014 in Civil Appeal No.6116 of 2014 (@ Special Leave Petition (C) No.22870/2007) filed by All Pensioners Federation, Cheranmahadevi.
3. Judgement Orders of the Hon'ble Madurai Bench of Madras High Court in the W.P.(MD) No.6366 of 2016 filed by Thiru K.P.K. Syed Mohamed Masooth, dated 22-11-2016.
4. Judgement Order of the Hon'ble Supreme Court of India, dated 11-10-2017 in Review Petition (C) No.1044/2017 in C.A. No.6116/2014 filed by the Government.

-oOo-

ORDER:

In the Government Order first read above, among others, orders were issued that the maximum qualifying service reduced from 33 years to 30 years to become eligible for full pension by the Government employees after retirement in cases of Government Employees retiring on or after 01-07-1996.

2. All Pensioners Federation, Cheranmahadevi challenged the cut-off date stipulated in the Government Order first read above and filed O.A.No.6705/1997 in the erstwhile Tamil Nadu Administrative Tribunal (TNAT) which was transferred as W.P.No.36651 of 2005 (T) to the Hon'ble High Court of Madras and the Writ Petition was dismissed by the Hon'ble High Court of Madras in its order dated 13-03-2006 as follows:

“All the court orders normally used to have only prospective effect, since the date of issue of the Government Orders with effect from 01-07-1996, the same has been given effect to those who have retired on or after 01.07.1996. As such the prayer sought for in this writ petition cannot be granted. Hence this writ petition is dismissed.”

P.T.O.

3. Aggrieved by the orders issued in the above Writ Petition, All Pensioners Federation, Cheranmahadevi was preferred appeal in W.A.No.789 of 2007 against the orders of the Hon'ble High Court, dated 13-03-2006 in W.P.No.36651 of 2005. The Writ Appeal was also dismissed by the First Bench of the Madras High Court in its order on 18-06-2007 as follows:-

"It has been held in a catena of judgment that fixing of a cut off date for granting of benefits is well within the powers of the Government as long as the reasons therefore are not arbitrary and are based on some rational consideration.

Taking the present case on the above said principles enunciated by the Supreme Court, the fixation of cut off dates as 01.07.1996 stating that the benefit of Government order is available to the persons who have retired after 01.07.1996 due to the reason that the qualifying service for pension has been reduced from 33 years to 30 years as the maximum age limit for entering into Government Department in Tamil Nadu has been raised from 24 years to 28 years, we do not see any arbitrariness or illegality in the same. In view of the same, the finding of the learned single Judge dated 13.03.2006, made in W.P.No.36651 of 2005, is confirmed. Consequently, the writ appeal fails and the same is dismissed."

4. Aggrieved by the orders of the Hon'ble High Court in the said appeal, All Pensioners Federation, Cheranmahadevi also preferred appeal in Civil Appeal No.6116 of 2014 (@ Special Leave Petition (C) No.22870/2007) in the Supreme Court of India. The Government in Finance Department had filed counter affidavit against the appeal filed by the All Pensioners Federation, Cheranmahadevi and defended the case by appointing Advocate on Record in Supreme Court of India.

5. The Hon'ble Supreme Court in its order dated 08-07-2014 has ordered as follows:-

"While not accepting the said submissions, we are inclined to state the benefit that has been granted in The Principal Secretary to Government Finance Department versus A.P. Pensioners Samaj & Ors. by the three-Judge Bench shall be made available to all the members of the appellant-Federation within a period of eight weeks. It is submitted by the learned senior counsel for the appellant that some of the employees might have expired in the meantime. In that case, the benefits have to be computed as per the aforesaid position and be paid to the legal representatives. The said exercise shall also be carried within a period of eight weeks. We hope and trust the State shall not get into slumber and not do the needful within the time fixed and seek extension. In the result, the appeals are allowed in part. There shall be no order as to costs."

6. The order of the Government is questioning the cut-off date of 01-07-1996 imposed on employees eligible for full pension on completion of 30 years of service. Considering the sensitiveness of the case and the volume of financial burden that would be caused to the State Exchequer while implementation of the order of the Hon'ble Supreme Court of India, a Review Petition was preferred by the Government in R.P. (C) No.1044/2017 in C.A.No.6116/2014 in the Hon'ble Supreme Court of India.

7. The Hon'ble Supreme Court in its order dated 11-10-2017 has ordered as follows:-

“We do not find any merit in the same. The Review Petition is dismissed on the ground of delay as well as merits.”

8. In the meantime, the Hon'ble Madurai Bench of Madras High Court has also passed orders in the W.P. (MD) No.6366 of 2016 filed by Thiru K.P.K.Syed Mohamed Masooth on 22-11-2016 as follows :-

“9. Going by the above said decision, it is clear that when the Government Order is providing for additional benefit, the petitioner is also entitled to the same, as he would be the member of the very same class of pensioners. The benefit, according to the said decision, cannot be denied to him on the ground that he had retired prior to the date on which the aforesaid additional benefits was conferred on all the members of the same class of pensioners who had survived by the time the scheme granting additional benefit to those pensioners came into force.

10. Under such circumstances, the first respondent is directed to consider the claim of the petitioner, in the light of the judgment of the Hon'ble Supreme Court in Civil Appeal No.5048 of 1998 dated 09.10.1998 (V.Kasturi Vs. Managing Director, State Bank of India, Bombay and Another) and in the light of the order passed by the Division Bench of this court in WP(MD)No.29946 of 2014 along with Rule 43(2) (a) (3) of the Tamil Nadu Pension Rules, 1978 and to pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order.

11. The Writ Petition is ordered accordingly. No costs.”

9. While delivering the above judgement, the Hon'ble Madurai Bench of Madras High Court has also made the following observations:-

“8. The Learned Counsel for the petitioner has relied upon the judgement of the Hon'ble Supreme Court in Civil Appeal No.5048 of 1998, dated 09-10-1998 (V.Kasturi Vs. Managing Director, State Bank of India, Bombay and Another) it has been held as follows :-

If the person retiring is eligible for pension at the time of his retirement and if he survives till the time by subsequent amendment of the relevant pension scheme, he would be eligible to get enhanced pension or would become eligible to get more pension as per the new formula of computation of pension subsequently brought into force, he would be entitled to get the benefit of the amended pension provision from the date of such order as he would be a member of the very same class of pensioners when the additional benefit is being conferred on all of them. In such a situation the additional benefit available to the same class of pensioners cannot be denied to him on the ground that he had retired prior to the date on which the aforesaid additional benefit was conferred on all the members of the same class of pensioners who had survived by the time the scheme granting additional benefit to these pensioners came into force.”

10. After careful consideration, the Government has in pursuance of the orders of the Hon'ble Supreme Court of India, decided to extend the benefit of the Government order first read above, to those who retired between 01-10-1979 and 01-07-1996.

11. Accordingly, Government direct that the benefit of the maximum qualifying service being reduced from 33 years to 30 years to become eligible for full pension shall also be extended to those who had retired between 01-10-1979 and 01-07-1996.

12. In the case of employees who retired between 01-10-1979 and 01-07-1996 and those who had not rendered maximum qualifying service of 33 years to become eligible for full pension / enhanced family pension at the level of full pension to their advantage, such Pensioner / Family Pensioner may apply to the authority in the department in which the Government employee last served who is competent to process and forward pension proposal to the Accountant General, Tamil Nadu in the prescribed form as at Annexure appended to this order in triplicate. In case of Pensioners who have died, the life time arrears shall be paid to the legal heirs on their claim. For this purpose, the legal heir shall apply through proper channel for revision of pension / enhanced family pension along with Death Certificate and relevant documents.

13. On receipt of application in triplicate, the competent authority shall verify the net qualifying service already certified / communicated by the Principal Accountant General, Tamil Nadu at the time of initial sanction of pension and shall forward the application directly to the Office of the Accountant General for authorising the revised entitled pension and enhanced family pension as ordered in G.O.Ms.No.371, Finance (Pension) Department, dated 30-04-1986, G.O.Ms.No.174, Finance (Pay Cell) Department, dated 21-04-1998, G.O.Ms.No.272, Finance (Pension) Department, dated 15-06-1998, G.O.Ms.No.579, Finance (Pension) Department, dated 15-09-2006, G.O.Ms.No.446, Finance (Pay Cell) Department, dated 18-09-2007, G.O.Ms.No.235, Finance (Pay Cell) Department, dated 01-06-2009, G.O.Ms.No.363, Finance (PGC) Department, dated 23-08-2013 and G.O.Ms.No.313, Finance (Pay Cell) Department, dated 25-10-2017.

14. The Principal Accountant General, Tamil Nadu is requested to recalculate the revised pension / enhanced family pension only on receipt of application and issue authorization to the Pension Pay Officer, Chennai / Treasury Officer / Sub-Treasury Officers concerned as the case may be where the Pensioner/Family Pensioner is drawing his pension / family pension. A copy of the authorization shall also be sent by the Office of Accountant General to the departmental officer concerned and to the Pensioner / Family Pensioner for information.

15. On receipt of the authorisation from the Office of the Accountant General, the Pension Disbursing Authority i.e. Pension Pay Officer, Chennai / Treasury Officers / Sub-Treasury Officers and in respect of Pensioners drawing pension / family pension through Banks, the Banks concerned shall workout the arrears based on the revised pension / enhanced family pension and disburse the arrears amount to the Pensioners / Family Pensioners / Legal heirs concerned within a month period.

16. Necessary amendment to the Tamil Nadu Pension Rules 1978 will be issued separately.

(BY ORDER OF THE GOVERNOR)

**K.SHANMUGAM
ADDITIONAL CHIEF SECRETARY TO GOVERNMENT.**

To
 All Secretaries to Government.
 All Departments of Secretariat.
 The Legislative Assembly Secretariat, Chennai - 600 009.
 The Governor's Secretariat, Raj Bhavan, Chennai - 600 022.
 All Heads of Departments.
 The State Information Commission, No.2, Thiyagaraya Salai, Near Aalai Amman Koil, Teynampet, Chennai-600 018.
 The Principal Secretary / Commissioner of Treasuries and Accounts, Nandanam, Chennai-600 035.
 The Accountant General (A&E), Chennai - 600 018
 The Principal Accountant General (Audit-I), Chennai - 600 018.
 The Accountant General (Audit-II), Chennai - 600 018.
 The Accountant General (CAB), Chennai - 600 009.
 The Registrar, High Court, Chennai - 600 104.
 The Secretary, Tamil Nadu Public Service Commission, Chennai-600003.
 The Commissioner, Corporation of Chennai / Madurai / Coimbatore / Tiruchirappalli / Salem / Thirunelveli / Erode / Tiruppur/ Vellore/ Thoothukudi.
 All District Collectors / District Judges / Chief Judicial Magistrates.
 All Regional Joint Directors of Treasuries and Accounts Departments.
 The Pension Pay Officer, Chennai-600 035.
 All Treasury Officers / Sub-Treasury Officers.
 All State Government owned Boards / Corporations.
 The President, All Pensioners Federation, Cheranmahadevi No.70, Sannathi Street, Vikramasingapuram-627 425, Ambasamudram, Tirunelveli District.

Copy to:

The Finance [Budget (Misc)] Department, Chennai-600 009.
 The Secretary to Chief Minister, Chennai-600 009.
 The Director of Pension, Chennai-600 035.
 The Principal Secretary & Commissioner of Treasuries & Accounts, Chennai-600 035.
 The Director of Local Fund Audit, Chennai-600 035.
 All Municipal Commissioners. / All Panchayat Union Commissioners.
 The President, Tamil Nadu Retired Officials Association, D.P.I. Campus, Chennai-600 006.
 The President, Tamil Nadu Secretariat Retired Officers Association, No.70, Medavakkam Tank Road, Kilpauk, Chennai - 600 010.
 The President, All India Federation of Pensioners' Association, No.22, Kavarai Street, Saidapet West, Chennai-600 015.
 The President, The Retired Teachers Association, No.12, Abayambalpuram, Mayiladuthurai, Nagapattinam District.
 The State President, All Bharat Confederation of Senior Citizens and Pensioners, No.7, Bharathidasan Street, Avinashi, Coimbatore District.
 The President, The Indian Officers Association, No.35, Thiru Vi Ka High Road, Royapettah High Road, Chennai - 600 014.
 The President, Tamil Nadu Senior Citizens' Association, No.V.95, Anna Nagar, Chennai-600 040.
 The President, Tamil Nadu Senior Citizens and Pensioners Welfare Association, No.38-B, First Main Road, Perumalpuram, Thirunelveli.
 The President, Retired Officials Association, Narayanarao Building, Muthu Kalathi Street, Triplicane, Chennai-600 005.
 The President, Govt. TANSI Retired Employees Association, Plot No.65, Tamarai Salai, Ayyappa Nagar, Pammal, Chennai-600 075.

- The President, Tamil Nadu Pensioners Association, No.7, Neeli Veerasamy Street, Triplicane, Chennai-600 005.
- The President, Retired Agricultural Graduate Association, K-Block, No.2, Salai Road, Housing Unit, Tiruchirapalli - 621 003.
- The State President, Tamil Nadu Senior Agro Technologists' Forum , No.11, Nachimuthu layout, K.K.Pudur, Coimbatore - 641 038.
- The President, Tamil Nadu Corporation and Municipal Pensioners Association, Varadhappan Street, Fort, Salem - 636 001.
- The President, Tamil Nadu Agricultural University Pensioners' Association, TNAU Campus, Coimbatore - 641 003.
- The State President, Tamil Nadu Retired Government Employees Association, No.3(G1), Krishnappa Street, Chepauk, Chennai - 5.
- The Tamil Nadu State Civil Service Officers Retired Association, No.46, Adappan Vayal 3rd Street, Pudukottai-622 002.
- The President, Tamil Nadu Retired Public Works Department Employees Association No.3/454, Veeramaa Munivar Street, East Mugapper, Chennai-37.
- The Welfare Association of Tamil Nadu Ind Absorbee Pensioners, No.12, 9th Street, Tansi Nagar, Velachery, Chennai-600 042.

-/ Forwarded : By Order /-

Caroline R
19.07.2018
SECTION OFFICER.

Annexure

[Vide G.O.Ms.No.245, Finance (PGC-I) Department, Dated: 19-07-2018]

FORM OF APPLICATION

To

Sir/Madam,

Sub: Application for revision of Pension / Enhanced Family Pension to those who had retired between 01-10-1979 and 01-07-1996 as per the G.O.Ms.No.245, Finance (PGC) Department, Dated: 19-07-2018 - Request - Regarding.

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Kindly revise my pension / family pension in terms of para-12 of G.O.Ms.No.245, Finance (PGC-I) Department, Dated: 19-07-2018.

Requisite particulars are given below:

1. Name of the Applicant :
(in **BLOCK** letters)
2. Postal Address :
(in **BLOCK** Letters)
(Duly furnish the District)
PIN Code
3. (a) Name of the Pensioner / Deceased :
Government employee (Pensioner)
in case of Family Pensioner.
(in **BLOCK** letters)
- (b) Relationship in case of Family :
Pensioner / Legal heirs.
4. (a) Designation / Post held by the :
Employee
(Selection Grade / Special Grade, if
applicable prior to 31.5.2009)
- (b) Office / Department from which
retired.
5. (a) Date of Birth :
- (b) Date of Appointment :
- (c) Date of Retirement :
- (d) Date of Death of Government :
employee in case of Family
Pensioner / Legal heirs.

- 6. Pension Payment Order (PPO) No. :**
(Pensioners getting pension outside the State shall give their respective No.)

[Copy of relevant pages containing pensioner / family pensioner details to be enclosed]

- 7. Details of Qualifying Service**

- (a) Gross Qualifying Service :
(b) Non Qualifying Service :
(c) Additional Qualifying Service :
(d) Net Qualifying Service :

Years	Months	Days

- 8. Scale of Pay at the time of retirement. :**

- 9. Original Pension at the time of Retirement or Family Pension in case of Death of Govt. employees while in service. :**

- 10. Pension Disbursing Authority [i.e. in respect of Pilot Scheme - Name of the PPO, Chennai / Treasury / STO and in respect of PSB Scheme outside the State - Name of Bank, Branch Address from which pension / family pension is being drawn.] :**

- 11. Name of the Bank, Branch with Account No. to which the pension / family pension is credited by the Pension Disbursing Authority. :**

- (a) Name of the Bank.
(b) Branch Name.
(c) Account No. with IFSC Code.

- 12. Documentary evidence, if any, in support of the claim. :**

Place :

Date :

**Signature of the Pensioner /
Family Pensioner / Legal heir.
Name :
PPO No.**

Note: The requisite particulars shall be filled up by the applicant from the data available in the Authorization for Pension copy approved by the Principal Accountant General (A&E), Tamil Nadu, Chennai at the time of retirement / death.

-/ True Copy /-

Caroline R
19.07.2018
SECTION OFFICER.